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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

IRELAND

1. The Committee considered the initial report of Ireland on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.15) at its 14th to 16th meetings, held on 4 and 5 May 1999 (twentieth session), and adopted, at its 25th and 26th meetings, held on 12 May 1999, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report by the State party, which is in general conformity with the guidelines established by the Committee. The Committee appreciates the written replies to the list of issues submitted by the State party. It also notes with satisfaction the presence of a large delegation, comprised of experts from various ministries, which answered most of the questions put to it during the frank and constructive dialogue.

B. Positive aspects

3. The Committee welcomes the determination of Ireland to implement the Good Friday Agreement of 1998 to settle peacefully the future status of Northern Ireland.

4. The Committee notes with satisfaction that the State party intends to increase its contribution to international development cooperation from 0.29 per cent of its GNP to 0.45 per cent by the year 2002.

5. The Committee also welcomes the adoption of the Employment Equality Act of 1998 and the Equal Status Bill of 1998 which aim at removing several aspects of discrimination relating to, inter alia, gender, marital status, family status, sexual orientation, religion, age, disability, race, colour, nationality, national or ethnic origin and membership of the traveller community.

6. The Committee notes with satisfaction the adoption of the Refugee Act of 1996, the Educational Act of 1998 and the National Anti-Poverty Strategy Plan for the period 1997-2007 and related mechanisms such as the poverty-proofing of policy proposals. In addition, it welcomes the establishment of the Task Force on Violence against Women in 1996 and the Task Force on Alcohol, the assessment by the Department of Health and Children of the needs of mentally handicapped persons for the period 1997-2001; and the establishment of the Domestic Violence and Sexual Assault Unit in 1993. It also welcomes the creation of the National Disability Authority and the Disability Support Service; and notes that a rights-based disability bill is currently being considered by Parliament.

7. The Committee welcomes the pro-active approach of the State party to the problem of reducing unemployment, which has led to a considerable drop in the unemployment rate from 11 to 6 per cent.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that, following the signing of the Good Friday Agreement, there are no further major factors and difficulties impeding the implementation of the Covenant.

D. Principal subjects of concern

9. The Committee regrets that the Covenant has not been fully incorporated or reflected in domestic legislation and is rarely, if ever, invoked before the courts.

10. The Committee notes with regret that the International Convention on the Elimination of All Forms of Racial Discrimination has not yet been ratified by Ireland because the legislative process for this purpose has not yet been completed.

11. The Committee notes with regret that article 40.1 of the Constitution contains provisions which appear to be inconsistent with the principle of non-discrimination as set out in articles 2 and 3 of the Covenant.

12. The Committee regrets that while the State party's National Anti-Poverty Strategy addresses issues relating to, inter alia, educational disadvantage and rural poverty, the Strategy does not adopt a human rights framework consistent with the provisions of the Covenant.

13. The Committee is also concerned in this regard about the persistence of poverty among disadvantaged and vulnerable groups, notably the disabled, the traveller community, children, elderly women and single women with children. Moreover, the Committee notes with concern that social welfare payments are not above the income poverty line and that child care benefits are not sufficient to cover the cost of bringing up a child.

14. The Committee notes with regret that there is as yet no appropriate legislation dealing with the rights of the mentally handicapped and especially with regard to their detention in psychiatric clinics.

15. The Committee also regrets that there is as yet no specific legislation to deal with the rights of the physically disabled, although the delegation asserted that the State party is committed to redressing this situation through existing administrative policies and measures.

16. The Committee is concerned at the high rate of illiteracy at various levels of society, especially among adults, youth, poor children, children of the traveller community and those in rural areas.

17. The Committee notes with concern that the increase in tobacco use is the single most important contributing factor to the disease burden facing Ireland and that the State party's responses have been inadequate to deal with this problem. The Committee is also concerned about the alcohol-related problems in Ireland which have not yet been addressed by the National Alcohol Policy of the State party.

18. The Committee deplores the fact that the Merchant Shipping Act of 1894 is still in force, which provides that seafarers absent without permission are punished by being forced to work on board ship. The State party promised to repeal or amend this Act after the International Labour Organization had condemned this practice, but has not done so yet.

19. The Committee notes with regret that the procedures for trade unions to obtain a licence to conduct collective bargaining negotiations are cumbersome.

20. The Committee also notes with regret that despite measures adopted by the State party the traveller community and the disabled are still discriminated against in various respects, such as employment, education and housing.

21. The Committee further notes with regret the relatively high rate of teenage suicide and the long waiting lists for medical services at public hospitals.

E. Suggestions and recommendations

22. The Committee recommends that the State party incorporate justiciable economic, social and cultural rights in the proposed amendment to the Constitution.

23. The Committee calls on the State party to consider ratifying the International Convention on the Elimination of All Forms of Racial Discrimination as soon as possible.

24. The Committee recommends that the State party speed up the process of adopting the rights-based Disability Bill and to start implementing it as soon as possible.

25. The Committee calls on the State party to expand the scope of its National Anti-Poverty Strategy, including the poverty-proofing of policy proposals, and to integrate a human rights approach into the Strategy.

26. The Committee requests the State party to provide more data in its second periodic report on the problem of poverty in Ireland and urges the Government to take all remedial measures in order to combat the problem of poverty in Ireland.

27. The Committee urges the State party to speed up the enactment of legislation relating to the human rights of the disabled and of the mentally handicapped, including their detention, and to enact the legislation to combat discrimination affecting the traveller community.

28. The Committee recommends that the State party adequately supervise the quality of education received by students at the primary school level of the formal educational system in order that the educational system be in conformity with articles 13 and 14 of the Covenant.

29. The Committee urges the State party to take the necessary measures to ensure that the provisions of the Covenant are widely disseminated, particularly among the legal profession and members of the judiciary.

30. The Committee requests the State party to ensure the wide dissemination of its present concluding observations and to inform the Committee of steps taken to implement these recommendations in its next periodic report.

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COMMITTEE ON ECONOMIC, SOCIAL
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

TUNISIA

1. The Committee considered the second periodic report of Tunisia concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.14) at its 17th to 19th meetings (twentieth session) held on 6 and 7 May 1999, and adopted, at its 27th meeting, held on 14 May 1999, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation for the detailed report submitted by the State party and the comprehensive answers provided by the delegation in response to the Committee's questions and comments. These contributed to a highly constructive dialogue between the Committee and the State party.

B. Positive aspects

3. The Committee notes with satisfaction the importance attached to economic, social and cultural rights by the State party and the indication by the delegation that many new laws and modifications of existing laws were

inspired by the obligations assumed under the Covenant. The Committee further expresses satisfaction that the rights provided for in the Covenant are part of the law of Tunisia by virtue of the provision of its Constitution that an international treaty ratified by Tunisia becomes part of domestic law.

4. The Committee welcomes the achievements in the field of better promotion and protection of the economic, social and cultural rights of women, as a result of which women are able to participate in the economic and political life of the nation, including by owning property, engaging in economic transactions, voting and being elected to public office. In addition, these achievements have contributed positively to family life by making polygamy illegal and has further promoted equality between men and women by removing all legal recognition of so-called "crimes of honour".

5. The Committee welcomes the success achieved in the promotion of sustainable human development, as evidenced by the reduction in the number of persons living below the national poverty line, the increase in life expectancy, the decrease in illiteracy and the decrease in infant mortality, as indicated by the overall human development index. The Committee notes with satisfaction that social welfare expenditure increased by as much as 20 per cent of the State budget between 1986 and 1996, which made many of these advances possible. Furthermore, 20 per cent of the national budget is devoted to education.

6. The Committee notes with interest the establishment in 1993 of the National Solidarity Fund through which contributions from individuals and enterprises are channelled to projects aimed at the development of remote regions and areas, enabling their inhabitants to have access to basic infrastructural facilities and utilities and to better create and manage their own sources of income.

7. The Committee welcomes the Act of 29 July 1991, which legislates free and compulsory school education for all children from 6 to 16 years of age, as well as the supplementary support extended to schools and to needy students that are necessary to make it a reality. It welcomes the fact that, today, 99 per cent of all children in Tunisia attend primary school. It also welcomes the considerable assistance being provided to students at the higher learning level including through grants, loans and health care and meal subsidies.

8. The Committee notes with satisfaction the efforts being made in the area of environmental protection, including in the framework of the Ninth Economic and Social Development Plan (1997-2001). It notes the increased budget for this purpose in the Ninth Plan which will be used, inter alia, for the development of equipment to combat pollution, for better management of waste, for the use of waste water in agricultural production and for combating desertification.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes the assertion of the State party that difficulties in the implementation of the Covenant are attributable to external factors linked to the international environment.

10. The Committee regrets that no further explanation was provided on the possible existence of other internal difficulties, such as high unemployment, the slowing economic growth in recent years or social or political tensions.

D. Principal subjects of concern

11. The Committee regrets that the ample information presented on the legislative, institutional and policy framework for the protection of each right was not supported by information on case law, which would have provided further insight on the actual state of implementation of those rights.

12. The Committee notes that, despite constitutional guarantees, the State organs for the promotion and protection of human rights are concentrated within the executive branch of government and that none of them are empowered to review complaints of violations of the rights provided for in the Covenant. The Committee is concerned that this compromises the independence of these institutions, including that of the judiciary, and the justiciability of economic, social and cultural rights.

13. The Committee is concerned that, despite the efforts of the State party, inequalities between men and women continue to persist, including with regard to access to positions of responsibility and to remuneration. It is particularly concerned that, according to the laws on inheritance, females are entitled to receive only half of the inheritance of males. While the State party believes that domestic violence in Tunisia is rare, the Committee is concerned about the scarcity of official data on this phenomenon.

14. With respect to article 6 of the Covenant, the Committee is concerned that, despite the priority given to job creation in national development plans, a high level of unemployment of approximately 15.6 per cent persisted in 1998, of which approximately 40 per cent consisted of persons unemployed for over one year.

15. With regard to article 8 of the Covenant, the Committee notes with concern the existence of only one confederation of trade unions in Tunisia, the Union générale tunisienne de travail (UGTT). The Committee expresses concern that a single trade union confederation representing the diverse range of all Tunisian workers may not be able to represent the plurality of their views. In particular, the Committee draws attention to the regulations requiring that all strikes be authorized by UGTT, which severely curtails the rights to strike and to freedom of association.

16. The Committee is concerned about the disparities of living standards, especially with regard to education, health, life expectancy, child mortality, access to piped water and electricity and employment, to be found between the prosperous north-east coast of Tunisia and the underdeveloped north-west, between the interior of the country and the south, and between the towns and rural areas.

17. With respect to articles 3 and 13 of the Covenant, despite the marked progress in the area of education, the Committee notes that illiteracy still

affects one third of the population, 42 per cent of women and 23 per cent of men, and that serious disparities continue to exist between the literacy rates of boys and girls at all age levels and between urban and rural areas. It also notes the serious problem of school drop-out, and especially that half of those enrolled in primary schools do not continue with secondary education. In this regard, the Committee is concerned about students who drop out at the end of the first cycle of basic education, of whom, according to the delegation 90 per cent had "exhausted their right to retake courses". The Committee is also concerned about the discrepancy between the age fixed in law for the completion of mandatory education, which is 16 years, and the minimum age for employment, which is 15 years for the manufacturing sector and 13 years for the agricultural sector. This discrepancy might encourage adolescents to drop out of secondary school.

18. The Committee is concerned about the manner in which knowledge of human rights is currently being imparted in Tunisian schools. It is also seriously concerned that the police presence on university campuses may infringe on the freedoms necessary for academic and cultural expression, which the State party is obliged to respect under article 15.

19. The Committee expresses concern over the censorship exercised on cultural productions. It remains unclear as to the role of the Theatrical Guidance Board, which is said not to censor the theatre but to assist drama groups presenting their productions for the first time.

E. Suggestions and recommendations

20. Regarding the role of national human rights institutions, the Committee draws attention to its General Comment 10 on the subject, in which it notes that, in many cases, such an institution is established by the Government, enjoys an important degree of autonomy from the executive and the legislature, takes full account of international human rights standards applicable to the country concerned, and is mandated to perform various activities designed to promote and protect human rights, including economic, social and cultural rights. Its activities may include monitoring compliance with specific rights recognized under the Covenant and providing reports thereon to the public authorities and civil society, and examining complaints alleging infringements of applicable economic, social and cultural rights standards within the State. In General Comment 10, the Committee calls upon States parties to ensure that the mandates accorded to all national human rights institutions include appropriate attention to economic, social and cultural rights. Accordingly, the Committee recommends that Tunisia review its national human rights institutions in the light of General Comment 10.

21. The Committee strongly recommends that all men, women and children of both sexes should be enabled to enjoy the right to inherit on a basis of equality.

22. The Committee suggests that the State party consider ways of monitoring more closely the incidence of domestic violence, in the light of which it may need to re-examine its law and policies on this phenomenon.

23. The Committee recommends that the State party continue its efforts, including through the National Solidarity Fund, to achieve balance in the development of urban and rural areas. As the Fund appears to play an important role in rural development, updated information is requested in the third periodic report.

24. With respect to the general framework within which human rights are protected and promoted, the Committee considers an independent judiciary to be an essential instrument for the protection of economic, social and cultural rights and therefore requests that information be included on the matter in the third periodic report.

25. The Committee recommends that continued attention be paid to the problem of unemployment, particularly long-term unemployment. It encourages the State party, when reviewing its vocational training programmes or establishing new institutions of higher learning, to take into consideration the needs of the economy so as to maximize the employment potential of graduates. In addition, in view of the assertion that Tunisian law reflects the main concerns of ILO Convention No. 158 on Termination of Employment, the Committee strongly recommends that this Convention be ratified by the State party. The Committee recommends that the State party take the necessary measures to ensure that sentences of forced labour may not be imposed for crimes of conscience or for participation in strikes declared to be illegal.

26. The Committee recommends that the procedures that have led to the association of trade unions within a single confederation be reviewed with a view to guaranteeing, in law and in practice, the right to strike and protection against infringement of trade union freedoms.

27. The Committee recommends that the State party develop an immediate national plan of action in order to reduce the disparities of living standards that exist between the various regions.

28. The Committee recommends that the State party continue to make efforts to guarantee a basic education to all children, including those that fail to keep pace with their peers. It recommends that the problem areas identified in the studies undertaken by the State party on the phenomenon of drop-out, including inadequacy of pedagogical tools, excessive numbers of students per class and per teacher, lack of interest on the part of parents in sending their children to school and distance between school and home, be addressed, particularly in the less developed rural areas. The Committee urges the State party to take all necessary corrective measures, including revising the minimum age of employment, particularly in agriculture, to address the problem of students dropping out of colleges and secondary schools. Further, with regard to article 13, the Committee encourages the State party to endeavour to establish separate courses on human rights, particularly at the university level, to make possible in-depth instruction on human rights. The Committee requests that information on the activities of the National Commission for Human Rights Education be included in the third periodic report.

29. The Committee expresses concern at the censorship exercised on cultural productions. It recommends that the criteria for censorship be made transparent, in law and in practice, and made fully compatible with the right of all persons to take part in cultural life.

30. The Committee requests information in the third periodic report on relevant case law that would aid its assessment of the implementation of all the rights provided for under the Covenant. It also requests specific information relating to any obstacles encountered in the implementation of the Covenant and expresses hope that the report will be submitted in a timely manner.

31. Finally, the Committee requests the State party to ensure the wide dissemination in Tunisia of its present concluding observations and to inform the Committee in its third periodic report of steps taken to implement those recommendations.